



REGULAR MEETING MINUTES

for

Wednesday, March 28, 2007

**4:30 P.M. – 7th Floor Small Conference Room
and**

**5:30 P.M. - Art Pick Council Chambers
3900 Main Street, Riverside, CA**

CASE REVIEW – 4:30 P.M.

Case Review Roll Call

Brewer	Davidson	Hubbard	Brandriff	Ward	Pearcy	Corral	Castro	Simpson
✓	A	✓	✓	✓	✓	✓	A	✓

✓ = Present A = Absent

Staff: Mario Lara, Interim CPRC Manager; Phoebe Sherron, Sr. Office Specialist

Public Comment

There was no public comment.

Closed Session – Case Reviews

Pursuant to Government Code Section 54957, the Commission adjourned to Closed Session at 4:03 p.m. to discuss issues pertaining to PUBLIC EMPLOYEE PERSONNEL MATTERS.

	<u>CPRC CASE NO.</u>	<u>IA CASE NO.</u>
1)	06-055	PC-06-10046
2)	06-069	PC-06-12057

The Commission recessed at 4:45 P.M. to reconvene in the Council Chambers.

OPEN SESSION – 5:30 P.M.

Audio for the following proceedings is available on the CPRC website:

www.riversideca.gov/cprc

Copies can also be obtained by calling the CPRC office at (951) 826-5509.

Vice-Chair Percy led in the Pledge of Allegiance. Vice-Chair Percy then asked Ms. Sherron to confirm commissioner attendance.

REGULAR MEETING – ROLL CALL

Brewer	Davidson	Hubbard	Brandriff	Ward	Pearcy	Corral	Castro	Simpson
✓	A	✓	✓	✓	✓	✓	A	✓

✓ = Present A = Absent

STAFF: Mario Lara, Interim CPRC Manager
Phoebe Sherron, Sr. Office Specialist

Vice-Chair Percy welcomed the newest commissioners, Steve Simpson and Peter Hubbard.

Public Comments

Mary Shelton

Ms. Shelton spoke regarding:

- The two at-will positions in the Police Department that were created by City Council. Ms. Shelton noted that there was concern over the process;
- The changes regarding the CPRC, mostly those that occurred during '06 Holiday Season;

Brown Officer-Involved Death Case

A) Receive / discuss updates to CPRC investigator's report on the Brown OID

Mr. Lara reviewed the following revisions to the investigator's report:

- Pg 8: Footnote added regarding transcript of belt-recorder and changes in summary
- Pg 10: Paragraph added to DNA / Fingerprint section
- Pg 11: Paragraph added in response to question regarding DNA evidence
- Pg 13: Clarification of trajectory analysis illustrations
- Pgs 14 – 16: Footnotes added to further clarify trajectory analysis illustrations
- Appendix: Photos of Tasers added

B) Discuss finalizing of the Commission's public report regarding the Officer-Involved Death of Lee Deante Brown on April 3, 2006.

Vice-Chair Percy explained that in the past, the Commission has met in a conference room to discuss finalizing public reports for OID cases and that various commissioners have assisted in drafting a conclusion based on comments made by various commissioners. He noted that most recently, staff has been asked to create a draft conclusion and the Commission would then have a round-table discussion to work toward finalizing the conclusion and report.

Commissioner Brewer asked if the Commission was still within the "time zone" for this case. Mr. Lara said his understanding was that the Commission was not "bumping up against any deadlines" at this point. Commissioner Brewer asked City Attorney Greg Priamos for confirmation

of that. Mr. Priamos said that "the statute is currently told as a result of the filing of a civil law suit as against the City and the involved officers."

Vice-Chair Percy advised that what Mr. Priamos said was that because of a civil suit that has been filed against the officers as a result of this incident, the clock on the statute of limitations has been stopped.

After verifying the number of cases for the next case review meeting, Vice-Chair Percy suggested that the Commission schedule discussion for case review day. Mr. Lara advised that it would be a separate meeting on case review day. Vice-Chair Percy said that case review would take place followed by discussion of the draft public report.

Consensus of the Commission was that case review would occur on April 11th at 3:00 followed by a special meeting to work on the Brown OID public report. Commissioner Brandriff suggested that if the meeting be held later to enable more members of the public to attend.

Mary Shelton

Ms. Shelton commented on:

- the changes in the current Brown OID report and who had drafted those changes;
- the DNA section and questions regarding the DNA samples;
- the trajectory analysis, the conclusions, and who made those conclusions;
- the report and that it has changed from what it was "into something else;"
- the City Attorney's statement regarding the deadline;
- the Taser photos in the appendix, noting that it would be helpful if there were descriptions;
- the "shaded" sections in the report, saying there needs to be an explanation regarding the source of the additions;

Vice-Chair Percy asked staff if the photos of the Tasers were generic or the Tasers used by the officers during the incident. Mr. Lara said he believed they were generic. Vice-Chair Percy asked Mr. Lara if he knew whether the models used by RPD are black or colored in some other way. Mr. Lara referred Vice-Chair Percy to RPD Asst. Chief (AC) John DeLaRosa. AC DeLaRosa said the photos were accurate depictions of the Tasers used by RPD. Vice-Chair Percy asked if Taser cartridges were metallic or if they were painted. AC DeLaRosa said he would need to verify that.

Vice-Chair Percy asked staff to verify the accuracy of the photos with the Tasers used in the Brown incident.

Commissioner Corral asked AC DeLaRosa if there was a fluorescent light on the model. He said there is a red laser that projects from the Taser. Commissioner Corral asked if there were lights on the side of the Taser. AC DeLaRosa said he wasn't sure about that.

Commissioner Ward asked Mr. Lara about the changes made in the report. Mr. Lara said that the changes were made by the investigator in response to requests made during discussion.

Vice-Chair Percy asked that reports that were used to come to certain conclusions be added as appendix items to alleviate any questions of authenticity.

Commissioner Ward asked commented on a statement in the DNA Analysis section, asking where the noted report by "T Ellis" is located. Mr. Lara replied that the report is in the criminal case book. Commissioner Ward asked if it had been there "all the time." Mr. Lara said it had been.

Vice-Chair Percy asked that everyone be prepared to begin working on the conclusion at the April 11 meeting.

Items for Commission Discussion

Vice-Chair Percy noted that the following items were added to the agenda by Commissioner Ward. Mr. Lara noted that he had been informed that Chairman Davidson had asked that this item be held until the next meeting as he wished to participate in the discussion of these items.

Vice-Chair Percy said Item D is specific to the chair and asked if the Commission would consider deferring all items. If not, he asked that at least Item D be deferred to a time when the chair could be present.

Commissioner Brewer recommended that the Commission address the item as it has been already deferred.

Vice-Chair Percy asked for comments and hearing none, moved to Item A, turning the item over to Commissioner Ward.

Commissioner Ward began by giving the background of the items came to be agendized. He said a meeting took place over the holidays with the chair, executive director, and city officials after which the chair contacted him to tell him what had taken place. The chair told him that then Executive Director Pedro Payne, had been excused from the meeting and told him what had been discussed. Commissioner Ward expressed his concern over the issues and suggested that a special meeting be called to inform the full Commission of what was going on. The chair declined to call that meeting.

Commissioner Ward said he began, on his own, meeting with people in the community, his City Council person, the Mayor, and the City Attorney with two different community groups. Someone asked him what the other commissioners thought of the issues and he said he would agendize those issues and concerns so they could answer for themselves.

- A) Commissioners ability to agendize discussion items without approval, review, or alteration by any city employee.

Commissioner Ward said he had asked to have an item added to an agenda, but that it was removed and replaced with a presentation by Asst. City Manager (ACM) DeSantis. He said he was informed by Mr. Lara that the item could be discussed under Commissioner Comments. During the meeting that was "nullified" as Commissioner Ward was told he could address his concerns, but that it couldn't be discussed.

Commissioner Brewer said he had no problem with the agenda "being sent to the 7th Floor or the City Attorney" for review, but feels they don't "have the right" to tell the Commission what they can or can't be put on the agenda.

City Attorney Priamos noted that the Brown Act limits the ability to conduct public meetings. Agenda items must be brief, general descriptions, typically not more than 20 words for each item to be discussed. If it's not properly agendized, the item cannot lawfully be discussed. He said the issue with the item proposed by Mr. Ward was that it was not specific enough in that it didn't provide a specific description of what he wanted to discuss. He noted that the items on the current agenda are very specific to what Mr. Ward wants to discuss.

Mr. Priamos said that, as for every board, commission, and City Council, every agenda is reviewed with the specific goal of ensuring compliance with the Brown Act.

Commissioner Simpson asked Mr. Priamos if the "train wreck" could have been avoided. Mr. Priamos said that he had informed the Executive Director who informed Commissioner Ward that greater specificity was needed for the item to be placed on the agenda. Without that, Commissioner Ward could bring the issue up during Commissioner Comments or during discussion of items for future consideration.

Commissioner Brandriff asked if Commissioner Ward was notified of the issues with his proposed agenda item in time to make the changes so it could be placed on the agenda. Mr. Priamos said he believed the Executive Director spoke with Commissioner Ward prior to the publication of the agenda.

Commissioner Ward said he didn't recall the wording for the item he wanted on the agenda. Mr. Lara said the wording was "To discuss events affecting the CPRC." Commissioner Ward said there was more to it: 'discuss events affecting the CPRC while on holiday recess' or something to that affect. Mr. Priamos confirmed that and said that was the description that created the problem. He noted that Commissioner Ward's item had now appeared on two consecutive agendas and proved the point he was making in that once specific language was given for the issues, they were placed on the agenda.

Mr. Priamos noted that any commissioner could place an item on the agenda as long as it complies with the Brown Act and unless the Commission changes that.

B) Do you believe that the development of a pool of investigative agencies will enhance the goals and objectives of this commission?

1) If yes – who should select the investigative agencies and how would cases be assigned?

Commissioner Ward said that this was one of the proposals Chairman Davidson had told him of that was "in the works." Commissioner Ward said he had been told by Chairman Davidson that the Asst. City Manager, the Police Chief, and the City Attorney were unhappy with reports from the Commission's investigator and felt that he wasn't being objective. Because of this, they wanted to develop a pool of investigators.

Vice-Chair Percy noted that statements being made by Commissioner Ward relating to Chairman Davidson "are in the realm of opinion." He said that because Chairman Davidson is absent, listeners were only getting "one side."

Vice-Chair Percy said that, regarding the intent of the city representatives, it should be up to them to speak for themselves. He said that he felt it would be beneficial to have more than one agency to conduct outside investigations for the Commission.

Commissioner Brewer said he disagreed with Vice-Chair Percy's comments to not discuss certain items because the chair was absent. Commissioner Brewer noted that other commissioners had been present at some of the meetings and knew what had been discussed. Vice-Chair Percy said he was speaking of the intentions of the chair, which can't be known unless he was here to address those intentions.

ACM DeSantis said that Staff's intention was not based on dissatisfaction of the current firm, but on "best practice." He said that it is common practice to have a "panel of experts" in a given field. He asked the Commission to withhold judgment on these points because of the City's retaining of Joe Brann, who is a nationwide expert in police, police conduct, and civilian review. Mr. Brann is going to research best practices and bring recommendations to the Commission for its consideration.

Commissioner Brandriff asked when Mr. Brann's recommendations would be ready. ACM DeSantis said that they had hoped to have something ready for the Commission in April, but Mr. Brann wants to sit in on CPRC meetings and interact with the Commission first so there would be a delay in getting that information to the Commission. Commissioner Brandriff noted that if Mr. Brann is a national expert, he shouldn't need to attend Commission meetings to come up with these recommendations. ACM DeSantis asked for the Commission's patience saying he believed it would "enhance the quality of the material" Mr. Brann would bring to the Commission and hoped that the delay would not be more than a few weeks.

Commissioner Corral asked ACM DeSantis for Mr. Brann's history. ACM DeSantis said that Mr. Brann was a consultant for the State Attorney General's office during the 5-year stipulated judgment against the RPD. ACM DeSantis said Mr. Brann has been retained by the City to assist with RPD's strategic plan and has also been hired to develop recommendations for consideration by the CPRC.

- C) Do you believe that the goals and objectives of this commission will be enhanced if we discontinue our parallel investigation and wait until the RPD and DA's investigations are complete?

Vice-Chair Percy said he felt it would be beneficial to have a pool of investigators in case there were several OID's at the same time. He also said he felt it would be beneficial if our investigator were allowed to be on-scene at OID's to "monitor and observe other investigations as they occur."

Commissioner Brandriff asked whose idea it was that CPRC's investigations should take place after the other investigations were done.

Mr. Priamos responded by saying that the decision to release of the criminal case book is made by the DA and the Police Chief. He said that all future OID's will be co-investigated by the DA and RPD, which is by directive of the new DA.

Commissioner Brewer noted that that has nothing to do with when the CPRC investigator goes into the field, noting that our investigator doesn't wait for the criminal case book to be released in order to interview witnesses. Mr. Priamos said he wasn't aware of any directive prohibiting the Commission's investigator from conducting his investigations and if that were to happen, it would come from the DA.

Commissioner Brandriff asked for information regarding the officer-involved death (OID) investigation procedures. Vice-Chair Percy advised that, as soon as the Commission receives information that an OID has occurred, the investigator is informed and, within a day or two, he begins his investigation. Commissioner Brandriff asked Mr. Priamos if this was still the process. Mr. Priamos confirmed that it was.

- D) How do you feel about the fact that city employees can meet in private with the CPRC chair without any public disclosure or public record of what took place, yet our public meetings are required to conform to the Brown Act?

Vice-Chair Percy again voiced his concerns regarding discussion of the Chair in the Chair's absence.

Commissioner Brewer noted that when he served as chair, the vice-chair was included in any meetings he attended.

Commissioner Ward noted that he was concerned about meetings that are "off the record" where the business of the CPRC is being discussed. He said that he has been involved "in a couple of those" that included the City Attorney, the Asst. City Manager, and the Police Chief. He said they were "passing information back and forth that affects this commission." Commissioner Ward said he'd asked the Asst. City Manager if he would be willing to call the same group of people and Commissioner Ward would include some community members. Commissioner Ward said he was told "No" as private meetings were needed in order to have open and frank discussions. Commissioner Ward noted that if that premise were used by the Commission, it could never have an "open and frank meeting" because all its meetings are public.

ACM DeSantis responded that discussions that were held with CPRC members constituted less than a quorum and there were no issues discussed or actions taken that would have violated the Brown Act. He also noted that there was no business conducted. He said that the business of the CPRC is conducted in meetings "like this, today, in compliance with the law and the expectations of the City and the residents we serve."

ACM DeSantis did note that there have been "small discussions" between city staff and the leadership of the Commission. He said there are times when smaller meetings are beneficial. He said that the goal of staff is to be able to communicate openly with the Commission and to provide support that is consistent with the mandate in the City Charter.

Mary Shelton

Ms. Shelton commented on:

- her observations of the meeting;
- Mr. Brann and her feeling that people would behave differently if he were in the audience;
- the City Attorney's presence at the past few CPRC meetings;
- attendance at CPRC meetings by RPD employees;
- "micromanagement" of the Commission by city staff
- investigative pool and conflicting accounts regarding that issue
- the latest Brown OID draft;
- parallel investigations and her feeling that the City doesn't want the Commission "to have one;"
- CPRC officers / elections;

Art Garcia

Mr. Garcia commented on:

- the Commission's formation as a liaison between the community and City Hall / RPD;
- the Commission being a transparent, independent body that is an advocate for what is true and right;
- the importance of the Commission to be able to choose its investigator(s).

CPRC Officer Election Procedures

He noted that members rotate in and out in March and that it is also at the first meeting in March that officer elections are held. He said he thought it unfair to new members as they are being asked to vote for people they don't know.

Vice-Chair Percy said he had asked this item to be agendaized in order to ask staff to work with the City Attorney to address the issue. He suggested that officer elections take place prior to new commissioners coming on board or that they take place six months after so that new members have an opportunity to form an educated opinion regarding the candidates.

Commissioner Brewer noted that ballots had already been turned in when the new commissioners were appointed and that the new commissioners were being asked to vote for people they didn't know.

Vice-Chair Percy said that he wanted to make sure the situations that came up during this election don't occur in the future. Mr. Lara suggested that this issue be referred to the Policies and Procedures Review Committee for review.

City Attorney Priamos advised the Commission that the City Charter requires all boards and commissions to conduct officer elections at the first meeting in March. A vote by the citizens of Riverside would be needed to change the Charter. He said that, under the CPRC By-Laws, the chair sits at the pleasure of the Commission. He said that the Commission could, possibly six months after the elections, reconsider whether or not the person elected as chair should continue in that position.

Vice-Chair Percy said this is the first time this issue had come up and again said he thought it was odd that officer elections would take place at the same time new members started their terms. He suggested that the Commission put a procedure in place to deal with the issue and asked if anyone would be interested in being part of an ad-hoc committee to deal with the issue.

Commissioner Brandriff asked Mr. Priamos how the elected officer would serve a year, as noted in the CPRC By-Laws if, after six months, another election took place. Mr. Priamos said that the By-Laws could be amended to deal with that concern. Mr. Priamos noted that as long as the Commission complied with the Charter, anything done after that would be up to the Commission.

Commissioner Brewer asked if the Policies and Procedures Review Committee could look at that once it was active again. Vice-Chair Percy deferred that discussion for Item 10, Committee Reports.

Mary Shelton

Ms. Shelton commented on:

- the infrequent meetings of the Policies and Procedures Review Committee;
- the CPRC elections;
- city staffs' attendance at CPRC meetings;
- issues facing the Commission.

Art Garcia

Mr. Garcia commented on:

- the CPRC elections / elections process.

Mr. Priamos noted for clarification that there was only one election for CPRC officers and that it was conducted in conformance with the Charter.

Mr. Priamos also commented on the criticism of staffs' attendance at the CPRC meetings. He noted that staff was there to "assist this body in the performance of its functions under the Charter." He said he hoped that his presence had been helpful. He said staff had been asked by Council to assist and would continue to assist the Commission.

Commissioner Brewer said he would "like to see you attend all our meetings."

Commissioner Ward asked if the Charter section concerning elections was with regard to all boards and commissions. Mr. Priamos noted that it was, whether or not the board or commission is "chartered."

Commissioner Brandriff also said that, especially since he is a new commissioner, he appreciated staffs' attendance because he has questions and was grateful staff was in attendance to answer his questions.

Vice-Chair Percy thanked staff, saying that several commissioners have asked for attendance by staff for a "significant period of time" and that he looked at staffs' presence as positive.

Approval of Minutes

Commissioner Brewer moved that the minutes for the January and February Regular Meetings (A & B) and the March Case Review Meeting (C) be approved as presented. Commissioners Simpson and Hubbard noted that they would only be voting on C. Vice-Chair Percy asked if the maker of the motion would allow approval of A and B together, and then C, to which Commissioner Brewer agreed.

Minutes for Approval	Motion	Second	Approve	Oppose	Abstain
A) January Regular Meeting	Brewer	Ward	5	0	2
B) February Regular Meeting	Brewer	Ward	5	0	2
C) March 14 Case Review Meeting	Brewer	Ward	7	0	0

Staff Report

A) Annual Report Status Update

Mr. Lara advised the Commission that the statistics for the annual report were in the process of being updated. He said he had asked that the commissioners e-mail or give him any highlights they would want included in the report.

Mr. Lara noted that the goal for completion of the report is the end of March, but that he didn't think that goal would be met. He again asked that commissioners forward to staff any highlights they might have.

Mr. Lara informed Vice-Chair Percy that ACM DeSantis had asked to update the Commission on the recruitment for the CPRC Executive Director position.

ACM DeSantis informed the Commission that the recruitment was going "very, very well." He reported that of the 50+ applicants, 35 to 40 met the minimum qualifications. He said that the recruitment was widely advertised in both "traditional and non-traditional sources."

ACM DeSantis said that because there were so many applicants, a two-panel interview process would be used: one panel would be made up of "city stakeholders;" the other panel would be community members from a variety of interests and backgrounds. He said the intent is to move them forward independently in a two-part process by doing a "paper screen" of the applicants who met the minimum requirements, identify 10 or 15 to be interviewed, and then begin the panel interviews. A recommendation regarding the top candidates would then be made to the City Manager for him to interview.

Commissioner Brewer noted that originally, the commissioners took part in the interview panels. ACM DeSantis noted that CPRC representation would be included on the community panel.

Vice-Chair Percy said he had noticed that the title of the job was CPRC Manager, not Executive Director. ACM DeSantis responded that the actual job classification is CPRC Manager and that Executive Director is a functional title.

Commissioner Brandriff asked if the job posting was closed. ACM DeSantis said it wasn't and that it had been left open until filled in order to get the best qualified candidates. Vice-Chair Percy said he was concerned about leaving the posting open in that it could "allow for the perception that someone could be thrown into the mix at the last minute." He said he didn't want there to be any opportunity for accusations of being "less than above board."

Commissioner Simpson said he would feel more comfortable if there is a sufficient, well-qualified pool of applicants, the posting should be closed for "exactly the reason the Chairman states." Commissioner Brandriff agreed.

ACM DeSantis said he would instruct Human Resources to pull the recruitment from the website and that anyone calling regarding the position be advised that while applications were no longer being accepted, they could send in an application and it would be held for future consideration should the recruitment be opened again. He said he wanted to keep the options open, noting that he wanted to avoid a situation where, after interviewing all the prospective applicants, no one really "fits."

Vice-Chair Percy suggested that a cut-off date be noted and that once the recruitment was closed, a note be posted to the effect that applications would still be accepted for future consideration. ACM DeSantis said he would be glad to do that.

Vice-Chair Percy thanked ACM DeSantis for the update.

Committee Reports

- A) Outreach Committee – Brian Percy, Chair, noted that –
- the Committee had not met as they were down members;
 - Commissioner Brandriff had expressed interest in serving on the Outreach Committee;
 - Vice-Chair Percy asked if anyone else was interested.

The Outreach Committee now stands at three members: Brian Percy, Sheri Corral, and John Brandriff.

- B) Policy & Procedure Review Committee – Jack Brewer, Chair, noted that –
- the Committee needed at least one more member;
 - Commissioner Simpson volunteered;

The Policies and Procedures Review Committee now stands at three members: Jack Brewer, Jim Ward, and Steve Simpson.

Commissioner Comments

Commissioner Corral thanked everyone in attendance and those who "always comes to the meetings."

Commissioner Brandriff congratulated AC DeLaRosa on his promotion. Commissioner Corral dittoed that.

Commissioner Brewer observed that he and CPRC staff member Phoebe Sherron "are the only ones still sitting up here that started at the very beginning of this commission." He noted that there were "start up" problems, but that he thought things had been running "pretty good" in the last few years. However, he said that in the last "18 months or so," things are "back to square one or below" and that he's "very disappointed with the way things are going."

Vice-Chair Percy offered his congratulations to AC DeLaRosa on his promotion. He expressed his appreciation to the "steadfast members of the community" that attend the CPRC meetings.

Adjournment

The Commission adjourned at 7:51 PM.

Respectfully submitted,


PHOEBE SHERRON
Sr. Office Specialist